

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2441

Introduced by Assembly Member Williams
(Coauthors: Assembly Members Allen, Bradford, Brownley, Eng,
Mendoza, and Mitchell, and Portantino)
(Coauthor: Senator Evans)

February 24, 2012

An act to add Chapter 20 (commencing with Section 26300) to Division 20 of the Health and Safety Code, and to add Part 14.7 (commencing with Section 34001) to Division 2 of the Revenue and Taxation Code, relating to sexual ~~assault~~ *assaults*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2441, as amended, Williams. Sexual assault treatment and prevention: sexually oriented business tax.

Existing law imposes various taxes, including taxes on the privilege of engaging in certain activities. The Fee Collection Procedures Law, the violation of which is a crime, provides procedures for the collection of certain fees and surcharges.

This bill would, *on or after January 1, 2013*, impose a tax on the privilege of operating a sexually oriented business, as defined, at the rate of \$10 per entry to the business by a customer per visit. The tax would be administered by the State Board of Equalization and would be collected pursuant to the procedures set forth in the Fee Collection Procedures Law. The bill would create the Sexual Assault Treatment and Prevention Fund, and would require that all revenues, less refunds and the costs of the administration of the tax, derived from the tax be transferred to the fund. This bill would provide that moneys in the fund,

upon appropriation by the Legislature, be used by the State Department of Public Health and the California Emergency Management Agency for specified purposes related to the treatment and prevention of sexual assault.

Because this bill would expand application of the Fee Collection Procedures Law, the violation of which is a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

~~This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that an award
2 of a grant to an organization pursuant to this act shall not result
3 in a reduction in moneys appropriated by the Legislature to that
4 organization.

5 SECTION 1.

6 SEC. 2. Chapter 20 (commencing with Section 26300) is added
7 to Division 20 of the Health and Safety Code, to read:

8

9 CHAPTER 20. SEXUAL ASSAULT TREATMENT AND PREVENTION

10

11 26300. (a) ~~The State Department of Public Health shall use~~
12 ~~funds transferred from the Sexual Assault Treatment and~~
13 ~~Prevention Fund to measure the prevalence of sexual assault in~~
14 ~~this state and for grants to support programs assisting victims of~~
15 ~~sexual exploitation and of human trafficking.~~

(b)

26300. The California Emergency Management Agency shall use funds transferred from the Sexual Assault Treatment and Prevention Fund only for the following purposes:

(1) (A) ~~The award of grants for programs that provide one or more of the following services related to sexual assault:~~

~~(i) Twenty-four hours per day, seven days per week crisis intervention.~~

~~(ii) Followup counseling services.~~

~~(iii) In-person counseling, including group counseling.~~

~~(iv) Advocacy and accompaniment services to hospitals, law enforcement offices, prosecutors' offices, and courts for survivors and their family members.~~

~~(v) Information and referrals to victims and the general public related to sexual assault.~~

~~(vi) Community education presentations on sexual assault awareness.~~

~~(vii) Rape prevention education.~~

~~(B) The award of a grant under this paragraph shall not result in a reduction in financial support that a program receives from another source.~~

~~(2) The award of grants to nonprofit, community-based organizations with a mission of providing sexual violence awareness, intervention, and prevention programs.~~

~~(3) The award of grants to support forensic examination rape kits.~~

~~(4) The award of grants to support technology in rape crisis centers.~~

(a) To award grants for intervention services related to sexual assault survivors and rape prevention programs provided by rape crisis centers, as stipulated in Section 13837 of the Penal Code, and for the following services:

(1) Civil legal services to sexual assault survivors.

(2) Coordination of sexual assault response teams that provide multidisciplinary response services to sexual assault survivors.

(3) Culturally and linguistically appropriate intervention services to sexual assault survivors from underrepresented or underserved communities.

(b) To award grants to reimburse the payment of sexual assault forensic exams.

1 ~~(5) The~~

2 ~~(c) To award of grants to, and contracts with, a statewide~~
3 ~~organization organized and operated as described in Section~~
4 ~~501(c)(3) of the Internal Revenue Code that has the primary~~
5 ~~purpose of ending sexual violence in this state, for programs for~~
6 ~~the intervention and prevention of sexual violence, outreach~~
7 ~~programs, training, and technical assistance to and support of~~
8 ~~California rape crisis centers working to intervene in, and prevent,~~
9 ~~sexual violence, as stipulated in Section 13837 of Penal Code, and~~
10 ~~other organizations funded by the Sexual Assault Treatment and~~
11 ~~Prevention Fund to prevent and intervene in sexual violence in~~
12 ~~underserved communities.~~

13 ~~(6) The award of grants to nonprofit, community-based providers~~
14 ~~of civil legal services to provide legal assistance for sexual assault~~
15 ~~victims.~~

16 ~~(d) To award grants to nonprofit, community-based~~
17 ~~organizations to support intervention and treatment services for~~
18 ~~victims of sexual exploitation of human trafficking, including, but~~
19 ~~not limited to, those that are engaged in work to end and prevent~~
20 ~~sexual and domestic violence.~~

21 ~~(e) To award grants to nonprofit, community-based~~
22 ~~organizations to support the intervention and treatment services~~
23 ~~for victims of sexual assault as part of dating or domestic violence,~~
24 ~~including, but not limited to, sexual assault services programs, as~~
25 ~~defined in Section 13837 of the Penal Code, or domestic violence~~
26 ~~victim service organizations, as defined in Section 1037.1 of the~~
27 ~~Evidence Code.~~

28 ~~(7)~~

29 ~~(f) No more than 5 percent annually of the funds deposited in~~
30 ~~the Sexual Assault Treatment and Prevention Fund may be used~~
31 ~~for the administration by the California Emergency Management~~
32 ~~Agency of these grant programs.~~

33 ~~(8)~~

34 ~~(g) (1) To fund a report created by the California Emergency~~
35 ~~Management Agency to the Governor and the Legislature reporting~~
36 ~~the result of actions taken by the Legislature on any gaps the~~
37 ~~following:~~

38 ~~(A) The deficiencies with respect to research, prevention,~~
39 ~~response, other victims' victim services, adjudication, and~~
40 ~~incarceration, related to sexual assaults at state and local levels.~~

1 ~~(9) To develop recommendations~~

2 ~~(B) The effectiveness of appropriations made to fund this chapter~~
3 ~~and other legislation related to sexual assault intervention enacted~~
4 ~~by the Legislature.~~

5 ~~(C) Recommendations for appropriate performance measures~~
6 ~~that enable the Governor and the Legislature to biennially assess~~
7 ~~and respond to the status of sexual assault prevention in this state.~~

8 ~~(10) To report to the Legislature on the effectiveness of~~
9 ~~appropriations made to fund this chapter and other legislation~~
10 ~~related to sexual assault enacted by the Legislature.~~

11 ~~(2) Notwithstanding Section 10231.5 of the Government Code,~~
12 ~~a report, pursuant to paragraph (1), shall be submitted on July 1,~~
13 ~~2015, and biennially thereafter.~~

14 ~~(3) A report to be submitted pursuant to this subdivision shall~~
15 ~~be submitted in compliance with Section 9795 of the Government~~
16 ~~Code.~~

17 ~~SEC. 2.~~

18 ~~SEC. 3.~~ Part 14.7 (commencing with Section 34001) is added
19 to Division 2 of the Revenue and Taxation Code, to read:

20
21 **PART 14.7. SEXUALLY ORIENTED BUSINESS TAX**
22

23 34001. For purposes of this part, the following definitions
24 apply:

25 (a) “Nude” means either:

26 ~~(1) Entirely unclothed.~~

27 ~~(2) Clothed~~ clothed in a manner that leaves uncovered or visible
28 through less than fully opaque clothing, any portion of the genitals
29 or buttocks or, in the case of a female, any portion of the breasts
30 below the top of the areola of the breasts.

31 (b) “Sexually oriented business” means a nightclub, bar,
32 restaurant, or similar commercial enterprise that does both of the
33 following:

34 (1) Provides for an audience of two or more individuals live
35 nude entertainment or live nude performances.

36 (2) Authorizes on-premises consumption of alcoholic beverages,
37 regardless of whether the consumption of alcoholic beverages is
38 under a license or permit issued under the Alcoholic Beverage
39 Control Act.

1 34002. The tax imposed by this part shall be in addition to any
2 other taxes imposed by law.

3 34003. On or after January 1, 2013, a tax is hereby imposed
4 upon the privilege of operating a sexually oriented business at the
5 rate of ten dollars (\$10) per entry to the business by a customer
6 per visit.

7 34004. A sexually oriented business shall record daily in the
8 manner required by the board the number of customers admitted
9 to the business. The business shall maintain the records for the
10 period required by the board and shall make the records available
11 for inspection and audit upon the request of the board.

12 34005. A sexually oriented business may not require the tax
13 imposed by this part to be reimbursed by an employee *or*
14 *independent contractor* of the sexually oriented business, but may
15 require the tax to be reimbursed by the customer whose entry the
16 tax is imposed upon, in a manner prescribed by the board.

17 34006. Each quarter a sexually oriented business shall do both
18 of the following:

19 (a) Remit the tax imposed under Section 34003 to the board in
20 the manner prescribed by the board.

21 (b) File a report with the board in the manner and containing
22 the information required by the board.

23 34007. The board shall administer and collect the tax imposed
24 by this part pursuant to the Fee Collection Procedures Law (Part
25 30 (commencing with Section 55001)). For purposes of this part,
26 the references in the Fee Collection Procedures Law to “fee” shall
27 include the tax imposed by this part and references to “feepayer”
28 shall include a person required to pay the tax imposed by this part.

29 34008. The board shall enforce the provisions of this part and
30 may prescribe, adopt, and enforce rules and regulations relating
31 to the administration and enforcement of this part. The board may
32 prescribe the extent to which any ruling or regulation shall be
33 applied without retroactive effect.

34 34009. (a) The board shall transmit all payments, less refunds
35 and the board’s costs of administration, to the Treasurer to be
36 deposited in the State Treasury to the credit of the Sexual Assault
37 Treatment and Prevention Fund, which is hereby created.

38 (b) Moneys in the Sexual Assault Treatment and Prevention
39 Fund shall, upon appropriation by the Legislature, be used as
40 specified in Section 26300 of the Health and Safety Code.

1 ~~SEC. 3.~~

2 *SEC. 4.* No reimbursement is required by this act pursuant to
3 Section 6 of Article XIII B of the California Constitution because
4 the only costs that may be incurred by a local agency or school
5 district will be incurred because this act creates a new crime or
6 infraction, eliminates a crime or infraction, or changes the penalty
7 for a crime or infraction, within the meaning of Section 17556 of
8 the Government Code, or changes the definition of a crime within
9 the meaning of Section 6 of Article XIII B of the California
10 Constitution.

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